

REMARKS

Claims 119, 129 and 130 are under examination and stand rejected under the Doctrine of Obviousness-Type Double Patenting. In this amendment claim 130 has been re-written as a dependent claim. Claims 127 and 131 have been cancelled.

The remaining rejections are obviousness type double patenting (ODP) rejections over claims of U.S. Application No. 09/721,477; U.S. Application No. 10/877,124; U.S. Application No. 09,721,506; and U.S. Application No. 11/207,078. Applicants have urged that these ODP rejections should be withdrawn because the subject applications are at varying stages of prosecution and it is not clear what claims will be prosecuted or allowed in these cases. However, the Office argues this is not a basis for withdrawal of the ODP rejections. Solely to expedite prosecution, applicants submit herewith terminal disclaimers in relation to U.S. Application No. 10/877,124; U.S. Application No. 09/721,506; and U.S. Application No. 11/207,078, overcoming the rejection in relation to these applications.

With regard to U.S. Application No. 09/721,477, Applicants respectfully traverse the rejection. The claims of the instant application are directed to a recombinant or synthetic polynucleotide that encodes a protein that, *inter alia*, has telomerase catalytic activity. In contrast, the claims of the '477 application are directed to polynucleotides that do not have catalytic activity. The Office Action statement that the claims of the instant application and of the '477 application are both inclusive of nucleic acids encoding the hTERT of SEQ ID NO:2 is not correct. The protein having the sequence of SEQ ID NO:2 has telomerase catalytic activity. The claims pending in the '477 application do not encompass a nucleic acid that encodes the hTERT of SEQ ID NO:2. Accordingly, Applicants respectfully request this rejection be withdrawn.

CONCLUSION

Applicants respectfully request that all rejections be reconsidered and withdrawn.
Applicants request that the examiner contact the undersigned if she believes any issues remain unresolved.

Respectfully submitted,



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